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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,974	12/23/2005	Albert W. Wauters	6.70.1067 PCT/IB-US (LBT1)	6214
83942	7590	02/25/2010	EXAMINER	
Levy & Grandinetti P.O. Box 18385 Washington, DC 20036			NICOLAS, FREDERICK C	
			ART UNIT	PAPER NUMBER
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			02/25/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,974	Applicant(s) WAUTERS ET AL.	
	Examiner Frederick C. Nicolas	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 11-14 is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 and 5-8 is/are objected to.
- 8) ☒ Claim(s) 1-3,5-9 and 11-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/23/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 4 and 9 is withdrawn in view of the newly discovered reference(s) to Stefano et al. 4,763,818 and Roberts et al. 4,264,019.

Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefano et al. 4,763,818 in view of Roberts et al. 4,264,019.

Stefano et al. disclose a dispensing apparatus (col. 1, ll. 8-16), which comprises a keg (11) having a self-contained bag (69) filled with a product; the keg having a curved side wall as seen in Figure 1, a pressure system (17) adapted to maintain a gas pressure in the keg against the bag to assist in the dispensing of the product from the dispensing apparatus, the pressure system comprising: a keg gas valve (41) mounted to the keg to permit entry of pressurized gas into the keg; a pressure reservoir (33) having a curved side wall (31) of the keg and which is mounted in the apparatus outside the keg and in fluid flow communication with the keg gas valve as seen in Figure 3, the pressure reservoir storing a charge of pressurized gas (35) and being adapted to supply at least a portion of the charge of pressurized gas into the keg through the keg gas

Art Unit: 3754

valve when the dispensing apparatus is operated to dispense the product (col. 4, ll. 49-68 onto col. 5, ll. 1-8). Stefano et al. lacks the product being an alcohol beverage. Roberts et al. teach the used of dispensing an alcoholic beverage via a flexible bag (34).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the food product of Stefano et al. with the alcohol beverage of Roberts et al., in order to dispense an alcoholic beverage as an alternate food product for human consumption.

Allowable Subject Matter

4. Claims 9,11-14 are allowed.
5. Claims 2,5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Batrow 3,434,632, Cornelius 3,233,779, Bull, Jr. 3,244,326, Pohlmann 103498 and Rast 3,519,167 disclose other types of alcohol beverage.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Frederick C. Nicolas/
Primary Examiner, Art Unit 3754